

**Kansas Social & Rehabilitation Services  
Economic & Employment Support  
ARRA Funds – Child Care & Development Fund Projects**

**Terms and Conditions**

**A. Background/Source of Funding**

The American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5) was signed into law by President Obama on February 17, 2009. The purpose of ARRA funding is to assist individuals most impacted by the recession; preserve and create jobs and promote economic recovery; provide investments needed to increase economic efficiency by spurring technological advances in science and health; invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and stabilize state and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.[ARRA,sec.3(a)]

Subsequently, on April 9, 2009, Kansas was awarded a one-time ARRA supplemental CCDF Discretionary grant award of \$18,415,435. Within that total, required funding amounts include:

- Targeted Funds: Quality Expansion (\$1,522,384);
- Targeted Funds: Infant and Toddler Quality Improvement (\$881,660) and
- Discretionary Funds - excluding targeted funds (\$16,011,391).

The award to the state provides funding for child care financial assistance to low-income working families affected by the economic downturns in the country as well as funding activities to improve the quality of child care.

**These one-time Discretionary funds awarded under ARRA must be obligated by September 30, 2010 and liquidated by September 30, 2011.** Funds awarded are 100% federal ARRA CCDF dollars.

ARRA funding is to be transparent, with timely and accountable reporting. Reporting by fund recipients occurs on a quarterly basis. SRS, as the Lead Agency for CCDF funds shall submit quarterly reporting electronically to [www.federalreporting.gov](http://www.federalreporting.gov). Following review of the data, final reports are published to [www.Recovery.gov](http://www.Recovery.gov) within 30 days after the end of the quarter to comply with transparency requirements and to enable full public access to data showing ARRA funded projects, locations, amounts, jobs retained or created, and completion status of projects.

Awards made with ARRA CCDF funds are subject to the following terms, conditions, and provisions:

**B. Program Standards**

The provisions of the Child Care and Development Block Grant (CCDBG) Act of 1990 as amended, the American Recovery and Reinvestment Act (ARRA) of 2009, and the provisions of the current approved CCDF State Plan, including all approved amendments or revisions.

### **C. Administrative Requirements**

1. The following regulations from Title 45 of the Code of Federal Regulations (CFR):  
**45 CFR Part 98** – Child Care and Development Fund; Final Rule  
**45 CFR Part 99** – Procedures for Hearings for the Child Care and Development Fund

The following Circulars from the Office of Management and Budget (OMB):

**OMB Circular A-133**- Audits of States, Local Governments, and Non-Profit Organizations and the **Single Audit Act of 1984** - as amended

**OMB Circular A-122** – Cost Principles for Non-Profit Organizations

**OMB Circular 87** – Cost Principles for State & Local Governments

**OMB Circular A-110** – Uniform Administrative Requirements for Grants & Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations

**OMB Memorandum M-09-21** - dated June 22, 2009 outlines the standard data elements and federal implementation guidance for use in complying with the reporting requirements under Section 1512 of the ARRA.

**OMB Memorandum M-10-08** – dated December 18, 2009: Part 2 of the Memorandum updates Section 5: Reporting on Jobs Creation Estimates by recipients (M-09-21).

The following guidance from the Administration for Children and Families (ACF):

**CCDF Specific Guidance to ARRA Section 1512** - outlines quarterly reporting requirements and definitions. [www.acf.hhs.gov/programs/ccb/initiatives/arra/1512/dd\\_1.htm](http://www.acf.hhs.gov/programs/ccb/initiatives/arra/1512/dd_1.htm)

2. Direct fund recipients under this program shall not be used to support inherently religious activities such as religious instruction, worship, or proselytization. Therefore, organizations must take steps to separate, in time or location, their inherently religious activities from the services funded under ARRA. (See 45 CFR Part 98.54)
3. Federal grant funds provided under this award may not be used by fund recipients to support lobbying activities to influence proposed or pending federal or state legislation or appropriations. This prohibition is related to the use of federal grant funds and is not intended to affect an individual's right or that of any organization, to petition Congress, or any other level of government, through the use of other resources. (See 45 CFR Part 93)
4. In accordance with Public Law 103-333, the "Department of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act of 1995," the following provision is applicable:

Section 507: "Purchase of American-Made Equipment and Products – it is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made."

Section 508: "When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with federal money, all States receiving federal funds, including but not limited to State and local governments and recipients of federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with federal money, (2) the dollar amount of federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources."

5. In accordance with Part C of Public Law 103-227, the "Pro-Children Act of 1994," smoking may not be permitted in any portion of any indoor facility owned or leased or contracted by an entity and used regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by federal programs whether directly or through State or local governments. Federal programs include grants, cooperative agreements, loans and loan guarantees, and contracts. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug and alcohol treatment.

The above language must be included in any fund recipient awards that contain provisions for children's services and that all fund recipients shall certify compliance accordingly. Failure to comply with the provisions of this law may result in the imposition of a civil monetary penalty of up to \$1,000 per day.

6. **Audit Requirement**

Fund recipients expending \$500,000 or more in federal awards during the fund recipient's fiscal year shall have an audit in compliance with the requirements of OMB Circular A-133.

7. **Conflicting Requirements**

To the extent ARRA requirements conflict with the state of Kansas requirements, the ARRA requirements shall control.

8. **Duty to Report Fraud**

The fund recipient shall promptly refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor or other person will or has: 1) submitted a false claim under the False Claims Act; 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA funds; or 3) engaged in misuse, gross waste, gross mismanagement or abuse of authority related to the use or award of ARRA funds.

9. **Whistleblower Protections of Employees under ARRA (Section 1553)**

The Lead Agency and fund recipient agree and acknowledge that an employee of any non-federal employer receiving funds pursuant to ARRA may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing (including a disclosure made in the ordinary course of an employee's duties), to the Recovery Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct), a court or grand jury, the head of a federal agency or their representatives, information that the employee reasonably believes is evidence of gross mismanagement of an agency contract or grant relating to ARRA funds:

- Gross waste of ARRA funds;
- A substantial and specific danger to public health or safety related to the implementation or use of ARRA funds;
- An abuse of authority related to implementation or use of ARRA funds; or

- A violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to ARRA funds.

Any employer receiving ARRA funds, shall post notice of the rights and remedies as required by Section 1553 of ARRA. ([www.recovery.gov](http://www.recovery.gov) )

**10. Enforceability**

If the fund recipient or one of its subcontractors/sub-grantees fails to comply with all applicable federal and state requirements governing the use of ARRA funds, the state of Kansas may withhold or suspend, in whole or in part, funds awarded under the program, or recover misspent funds following an audit. This provision is in addition to all other remedies available to the state of Kansas under all applicable state and federal laws.

**11. Inspection of Records**

The fund recipient shall permit the United States Comptroller General or his representative or the appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 or his representative to: (1) examine any records that directly pertain to, and involve transactions relating to, this award; and (2) interview any officer or employee of the fund recipient or any of its subcontractors/sub-grantees regarding the activities funded with funds appropriated or otherwise made available by the ARRA.

**12. Prohibition on Use of ARRA Funds**

The fund recipient agrees that none of the funds made available under this award may be used for any casino or other gambling establishment, aquarium, zoo, golf course, swimming pools, or similar projects.

**13. Revisions to ARRA Requirements**

These Terms and Conditions may be revised pursuant to ongoing guidance from the Department of HHS (Child Care Bureau) regarding requirements for ARRA funds. The fund recipient agrees to abide by any such revisions upon receipt of written notification from the Lead Agency of the revisions, which will automatically become a part of these Terms and Conditions, without the necessity of either party executing any further instrument.

**14. Subcontractor/Sub-grantee Requirements**

The fund recipient agrees that it shall include these standard terms and conditions, including this requirement, in any of its subcontracts or subgrants in connection with projects funded in whole or in part with funds available under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5.

**15. Segregation of Funds**

The fund recipient agrees that it shall segregate obligations and expenditures of ARRA funds from other funding. No part of funds available under ARRA may be commingled in accounting records with any other funds or used for a purpose other than that of making payments for costs allowable under ARRA and this agreement.

ARRA funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of ARRA and related guidance. For projects funded by other sources in addition to

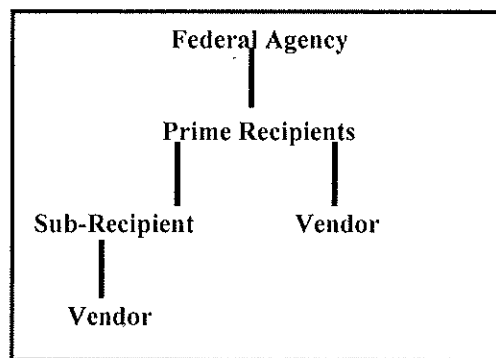
ARRA funds, the fund recipient must keep separate records for ARRA funds and must ensure those records comply with ARRA requirements.

#### **D. FINANCIAL AND PROGRAM PROGRESS REPORTING – ARRA Section 1512**

States and Territories are required to comply with reporting requirements under the American Recovery and Reinvestment Act (ARRA) of 2009, including section 1512 of the ARRA. The law includes clear expectations that States and other recipients of ARRA Recovery funds will be held accountable for how funds are expended and what benefits are derived from the use of these funds. ACF anticipates requests for spending and performance data that will be posted on the [www.recovery.gov](http://www.recovery.gov) website. Therefore, fund recipients should anticipate accountability and transparency requirements specific to any awards made with ARRA CCDF funds and take steps to ensure that information on the State-reported impact of these expenditures will be available to the public.

##### **1. Section 1512 Key terms include:**

- **Prime Recipient:** A non-federal entity that receives ARRA funding as federal awards in the form of grants, loans, or cooperative agreements directly from the federal government. A CCDF Lead Agency is a prime recipient. **For Kansas ARRA CCDF funds, the Lead Agency is Social and Rehabilitation Services (Economic and Employment Division), 915 SW Harrison, Topeka, KS and serves as the Prime Recipient for these funds.**
- **Sub-recipient:** A non-federal entity that expends federal awards received from another entity to carry out a federal program but does not include an individual who is a beneficiary of such a program. The terms and conditions of the federal award are carried forward to the sub-recipient. **The Contractor/grantee selected for this award will be considered as a sub-recipient and will meet sub-recipient reporting requirements.**
- **Vendor:** A dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a federal program. Prime recipients or sub-recipients may purchase goods or services needed to carry out the project or program from vendors. A vendor provides the goods and services within normal business operations; provides similar goods or services to many different purchasers; operates in a competitive environment; provides goods or services that are ancillary to the operation of the federal program; and is not subject to compliance requirements of the federal program. In some instances, there are first level Vendors receiving awards directly from the Lead Agency.



## **2. FUND RECIPIENTS: Sub-recipient and Vendor Determination Guidelines**

States are required to determine recipient type when awarding contracts/grants using federal funds. Therefore, for the purposes of ARRA CCDF funding, "fund recipients" will include: sub-grantees/sub-recipients, and vendors. OMB Circular A-133 establishes the standards for determining the difference between a sub-grantee and a vendor, based on the substance of the relationship with the State, rather than the form of the agreement.

A fund recipient is considered a sub-grantee/sub-recipient and is subject to OMB Circular A-133 if it meets the following conditions:

- a) Determines who is eligible to receive what Federal financial assistance;
- b) Has its performance measured against whether the objectives of the Federal program are met;
- c) Has responsibility for programmatic decision making;
- d) Has responsibility for adherence to applicable Federal program compliance requirements;
- e) Uses the Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity;

A fund recipient is considered a vendor and is not subject to OMB Circular A-133 if it meets the following conditions:

- a) Provides the goods and services within normal business operations;
- b) Provides similar goods or services to many different purchasers;
- c) Operates in a competitive environment;
- d) Provides goods or services that are ancillary to the operation of the Federal program;
- e) Is not subject to compliance requirements of the Federal program.

## **3. DUNS Numbers**

All Bidders are required to have a DUNS number at time of submission of funding proposal. This number is a unique nine-digit identification number provided by Dun & Bradstreet. It may be obtained at no cost at the following website: [www.fedgov.dnb.com/webform](http://www.fedgov.dnb.com/webform) or by calling 866-705-5711. Verification of the DUNS number must be submitted as part of the funding proposal.

## **E. QUARTERLY REPORTING REQUIREMENTS**

Section 1512 of the ARRA [ref. Title XV, Subtitle A (P.L. 111-5)] describes specific reporting requirements for recipients receiving ARRA funds. In Kansas, the Lead agency for ARRA CCDF funds is the Kansas Department of Social and Rehabilitation Services (SRS). SRS submits quarterly reports electronically to the federal government no later than the 10<sup>th</sup> day following the end of each calendar quarter. In order to meet these timelines, fund recipients receiving awards greater than \$25,000 (referred to as first level sub-recipients) from SRS shall be subject to Section 1512 reporting and submit quarterly reporting electronically by the 3<sup>rd</sup> day after the end of each calendar quarter (April 3, July 3, October 3, January 3) to the SRS ARRA CCDF Special Project Manager. **SRS will not delegate fund recipients to report directly to the federal agency.**

Fund recipient quarterly reporting will consist of the following reports (please see attachments and instructions).

1. Quarterly EXCEL Spreadsheet Report
  - Tab 1- ARRA-CCDF Quarterly Budget-Transaction Report
  - Tab 2- ARRA Quarterly Vendor Payments
  - Tab 3- ARRA Quarterly Jobs Funded
2. ARRA-CCDF Quarterly Project Performance Report

Monitoring and technical assistance on reporting will be provided throughout the grant award period by the SRS ARRA CCDF Special Project Manager. For complete ARRA CCDF requirements and guidance, please access the following website:

[www.acf.hhs.gov/programs/ccb/initiatives/arra/1512/dd\\_1.htm](http://www.acf.hhs.gov/programs/ccb/initiatives/arra/1512/dd_1.htm)

